

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

ROBERT L. MARTIN,

Plaintiff

v.

C-1-12-281

GARY MOHR, *et al.*,

Defendants

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 36) to which neither party has objected.

Upon a *de novo* review of the record, the Court finds that the Judge has accurately set forth the applicable law and has properly applied it to the particular facts of this case. Accordingly, in the absence of any objection by plaintiff, this Court accepts the Report as uncontroverted. The Report and Recommendation of the United States Magistrate Judge (doc. no. 36) is hereby ADOPTED AND INCORPORATED HEREIN BY REFERENCE. Claims 1 and 2 of plaintiff's Amended Complaint (doc. no.

17) are DISMISSED *sua sponte* for failure to state a claim upon which relief may be granted; defendants' Motion for Summary Judgment (doc. 30) is GRANTED; and Claims 8 and 9 of plaintiff's Amended Complaint (doc. no. 17) are DISMISSED without prejudice for failure to exhaust administrative remedies pursuant to 42 U.S.C. § 1997e.

This Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Order would not be taken in good faith. *See, McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997). The Court therefore DENIES plaintiff leave to proceed *in forma pauperis* in the United States Court of Appeals for the Sixth Circuit.

This case is DISMISSED AND TERMINATED on the docket of this Court.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court